In re Application of Young et al.
Application No. 09/599,156

REMARKS

The Office action has been carefully considered. The Office action maintained a previous rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,860,012 to Luu et al. ("Luu"). Additionally, the Office action maintained previous rejections of claims 2-12, 14-15, 27-34, and 38-41 under 35 U.S.C. § 103(a) as being unpatentable over Luu in view of U.S. Patent No. 5,809,251 to May et al. ("May"). Further, the Office action maintained previous rejections of claims 16, 17, 19, and 22 under 35 U.S.C. § 103(a) as being unpatentable over May in view of Luu. Still further, the Office action maintained previous rejections of claims 42 and 51 under 35 U.S.C. § 103(a) as being unpatentable over Luu in view of U.S. Patent No. 5,995,756 to Hermann et al. ("Hermann"). The Office action also maintained previous rejections of claims 35 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Luu in view of May and in further view of U.S. Patent No. 6,457,175 to Lerche et al. ("Lerche"). The Office action maintained previous rejections of claims 43-47, 49 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Luu in view of May and in further view of Hermann. Finally, the Office action maintained a previous rejection of claim 48 under 35 U.S.C. § 103(a) as being unpatentable over Luu in view of May and in further view of Hermann and Lerche. Applicants respectfully disagree.

By present amendment, claims 1, 16, 27, and 42 have been amended for clarification and not in view of the prior art. Claims 13, 23, 38, and 49 are cancelled. Applicants submit that the claims as filed were patentable over the

prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

The present invention is directed to a method and system for installing management software on a remote client by using an installation service that does not require user intervention. This may be accomplished by transmitting an installation service to a client machine, which when executed, may install the management software. Client machines that are candidates for the installation service may be discovered by a data discovery manager that runs on a server. Once discovered, the installation service may be transmitted to the discovered client machine and then executed.

The installation service may install software without the need of a preexisting installation program already residing on the target machine, (or for that matter a version of a to-be-installed application program already residing on the target machine). Moreover, the installation service may be transmitted from a server machine to the client machine based on a connection initiated by the server to that client. By transmitting an installation service that installs software, significant advantages over prior art are realized because the need for someone (such as each user or a team of administrators) to physically travel to each client

machine and manually put the "special installation program" on that machine so that it can be present to do the application update, when later needed. Once installed, the management software allows the remote maintenance of client computers that includes, for example, deploying applications on the client computers, maintaining and upgrading applications, and removing applications.

Note that the above description is for informational purposes only, and should not be used to interpret the claims, which are discussed below.

Rejection under § 102

Turning to the claims, amended claim 1 recites a method for installing software onto a remote client machine, comprising initiating a connection at a server to the client machine, transmitting an installation service that installs software, the installation service transmitted from the server to the client machine based on the connection initiated by the server, and executing the installation service on the client machine, the executing independent of any installation program previously installed on the client machine, the executing further comprising running a bootstrap service to connect the client machine to a second server; and transmitting additional software from the second server for installing on the client machine.

The Office action maintains the rejection of claim 1 as being anticipated by Luu. More specifically, The Office action contends that Luu teaches initiating a connection at a server to the client machine. Column 1, lines 60-66 of Luu is referenced. Further, the Office action contends that Luu teaches transmitting the

installation service that installs software, the installation service transmitted from the server to the client machine based on the connection initiated by the server. Column 2, line 2-6 of Luu is referenced. Still further, the Office action contends that Luu teaches executing the installation service on the client machine. Column 2, lines 2-6 of Luu is referenced. Applicants respectfully disagree.

Notwithstanding applicants' disagreement, claim 1 has been amended to include the recitations formerly recited in claim 13. More specifically, claim 1 recites the executing further comprising running a bootstrap service to connect the client machine to a second server; and transmitting additional software from the second server for installing on the client machine. The Office action acknowledges that the recitations of claim 13 are not taught or even suggested by Luu whether considered alone or in any permissible combination of the prior art of record. In essence, the Office action indicated that claim 13 contains allowable subject matter that is patentable over the prior art of record. Applicants submit that claim 1, as amended, is allowable over the prior art of record for at least this reason.

Rejections under § 103

The Office action rejected claims 2-15, which depend either directly or indirectly from claim 1 as being unpatentable over Luu in view of May. Applicants respectfully submit that dependent claims 2-15, by similar analysis discussed above with respect to claim 1, are patentable. As discussed above, Luu, whether considered alone or in any permissible combination of the prior art

of record, fails to teach or even suggest the recitations of claim 1 and, therefore, these claims are also patentable over the prior art of record. In addition to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, amended claim 16 recites a system for selectively installing management software onto remote client machines, comprising a data manager for evaluating information associated with a plurality of discovered remote client machines, and for selecting one of the remote client machines as a selected client machine, a configuration manager for initiating a connection to the selected client machine; and an installation service transmitted by the configuration manager to the selected client machine, the installation service installing at least part of the management software on the selected client machine, the installing independent of any installation program previously installed on the client machine, wherein the installation service may be operable to execute a bootstrap service to connect the client machine to a second server and to coordinate transmission of additional software from the second server for installing on the client machine.

The Office action maintained the rejection of claim 16 as being unpatentable over May in view of Luu. More specifically, the Office action contends that May teaches a configuration manager for initiating a connection to the client machine. Column 13, lines 47-48 of May is referenced. The Office action concedes that May does not explicitly teach a data manager, but contends

that it does teach a medium for evaluating information on discovered remote client machines and that the selected client machine is the one in which the server connects to initially. Column 13, lines 47-55 of May is referenced. The Office further concedes that May does not teach transmitting an installation service for installing part of the management software on the selected client machine. The Office action, however, contends that Luu does disclose this recitation. Column 5, lines 10-15 and column 7, lines 18-20 of Luu are referenced. The Office action then concludes that it would have been obvious to a person skilled in the art at the time the invention was made to combine the teachings of May and Luu to arrive at the recitations of claim 16 because such a combination would allow for a self-executing package to install files for an application on a client machine. Applicants respectfully disagree.

Notwithstanding applicants' disagreement, claim 16 has been amended to include the recitations formerly recited in claim 23. More specifically, claim 16 recites wherein the installation service may be operable to execute a bootstrap service to connect the client machine to a second server and to coordinate transmission of additional software from the second server for installing on the client machine. The Office action acknowledges that the recitations of claim 13 (which are similar to the recitations of claim 23) are not taught or even suggested by Luu or May whether considered alone or in any permissible combination of the prior art of record. In essence, the Office action indicated that claim 13 (as well as similar claim 23) contains allowable subject matter that is patentable over the

prior art of record. Applicants submit that claim 16, as amended, is allowable over the prior art of record for at least this reason.

The Office action rejected claims 17-26, which depend either directly or indirectly from claim 16 as being unpatentable over some combination of Luu and May. Applicants respectfully submit that dependent claims 17-26, by similar analysis discussed above with respect to claim 16, are patentable. As discussed above, Luu and May, whether considered alone or in any permissible combination of any prior art or record, fail to teach or even suggest several of the recitations of claim 16, and, therefore, these claims are also patentable over the prior art of record. In addition to the recitations of claim 16 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, amended claim 27 recites a method for installing management software onto a remote client machine, comprising, attempting to initiate a connection at a server to the client machine, and if successful, transmitting an installation service from the server to the client machine, and executing the installation service, the executing independent of any installation program previously installed on the client machine, and if not successful, secondarily attempting to initiate a connection at the server to the client machine, and if successful, transmitting an installation service from the server to the machine, and executing the installation service, the executing independent of any installation program previously installed on the client machine, wherein the installation service comprises a bootstrap service, such

that executing the installation service includes running the bootstrap service to connect the client machine to another server, and transmitting additional software from the other server for installing on the client machine.

The Office action rejected claim 27 unpatentable over of Luu in view of May. More specifically, the Office action contends that claim 27 is rejected for substantially the same reasons that claims 1 and 16 are rejected. Applicants respectfully disagree.

Notwithstanding applicants' disagreement, claim 27 has been amended to include the recitations formerly recited in claim 38. More specifically, claim 27 recites wherein the installation service comprises a bootstrap service, such that executing the installation service includes running the bootstrap service to connect the client machine to another server, and transmitting additional software from the other server for installing on the client machine. The Office action acknowledges that the recitations of claim 13 (which are similar to the recitations of claim 38) are not taught or even suggested by Luu or May whether considered alone or in any permissible combination of the prior art of record. In essence, the Office action indicated that claim 13 (as well as similar claim 38) contains allowable subject matter that is patentable over the prior art of record. Applicants submit that claim 27, as amended, is allowable over the prior art of record for at least this reason.

The Office action rejected claims 28-41, which depend either directly or indirectly from claim 27 as being unpatentable over some combination of Luu,

May, Lerche, and Hermann. Applicants respectfully submit that dependent claims 28-41, by similar analysis discussed above with respect to claim 27, are patentable. As discussed above, Luu and May, whether considered alone or in any permissible combination of the prior art of record, fail to teach or even suggest several of the recitations of claim 27, and, therefore, these claims are also patentable over the prior art of record. In addition to the recitations of claim 27 noted above, each of these dependent claims includes additional patentable elements.

Turning to the last independent claim, amended claim 42 recites a method for installing software onto a client machine, comprising, determining whether a user that is logged onto the client machine has sufficient security rights to have software installed on the client machine, and if so, executing a process at the client machine to install the software, and if not, initiating a connection at a server to the client machine, transmitting an installation service from the server to the client machine based on the connection, and executing the installation service to install the software wherein the installation service comprises a bootstrap service, such that executing the installation service includes running the bootstrap service to connect to the client machine to another server, and transmitting additional software from the other server for installing on the client machine, the executing the installation service independent of any installation program previously installed on the client machine.

The Office action rejected claim 42 as unpatentable over Luu in view of May. More specifically, the Office action contends that claim 42 is rejected for substantially the same reasons that claims 1 and 16 are rejected. Applicants respectfully disagree.

Notwithstanding applicants' disagreement, claim 42 has been amended to include the recitations formerly recited in claim 49. More specifically, claim 42 recites wherein the installation service comprises a bootstrap service, such that executing the installation service includes running the bootstrap service to connect the client machine to another server, and transmitting additional software from the other server for installing on the client machine, the executing the installation service independent of any installation program previously installed on the client machine. The Office action acknowledges that the recitations of claim 13 (which are similar to the recitations of claim 49) are not taught or even suggested by Luu or May whether considered alone or in any permissible combination of the prior art of record. In essence, the Office action indicated that claim 13 (as well as similar claim 49) contains allowable subject matter that is patentable over the prior art of record. Applicants submit that claim 42, as amended, is allowable over the prior art of record for at least this reason.

The Office action rejected claims 43-51, which depend either directly or indirectly from claim 42 as being unpatentable over some combination of Luu, May, Lerche, and Hermann. Applicants respectfully submit that dependent claims 43-51, by similar analysis discussed above with respect to claim 42, are

patentable. As discussed above, Luu and May, whether considered alone or in any permissible combination of any prior art of record, fail to teach or even suggest several of the recitations of claim 42, and, therefore, these claims are also patentable over the prior art of record. In addition to the recitations of claim 42 noted above, each of these dependent claims includes additional patentable elements.

For at least these additional reasons, applicants submit that all the claims are patentable over the prior art of record. Reconsideration and withdrawal of the rejections in the Office action is respectfully requested and early allowance of this application is earnestly solicited.

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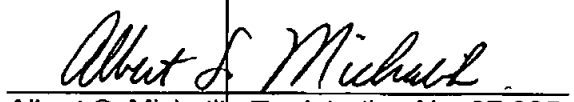
CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-51 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment, along with transmittal and facsimile cover sheet, are being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: December 7, 2004

Albert S. Michalik

2230 Fourth Amendment